

§ 2700.30

§ 2700.30 Assessment of penalty.

(a) In assessing a penalty the Judge shall determine the amount of penalty in accordance with the six statutory criteria contained in section 110(i) of the Act, 30 U.S.C. 820(i), and incorporate such determination in a written decision. The decision shall contain findings of fact and conclusions of law on each of the statutory criteria and an order requiring that the penalty be paid.

(b) In determining the amount of penalty, neither the Judge nor the Commission shall be bound by a penalty proposed by the Secretary or by any offer of settlement made by a party.

§ 2700.31 Penalty settlement.

(a) *General.* A proposed penalty that has been contested before the Commission may be settled only with the approval of the Commission upon motion.

(b) *Settlement motion.* A motion to approve a penalty settlement shall include the following information for each violation:

(1) The amount of the penalty proposed by the Secretary;

(2) The amount of the penalty agreed to in settlement; and

(3) Facts in support of the penalty agreed to by the parties.

(c) *Order approving settlement.* Any order by the Judge approving a settlement shall set forth the reasons for approval and shall be supported by the record. Such order shall become the final decision of the Commission 40 days after issuance unless the Commission has directed that the order be reviewed.

Subpart D—Complaints for Compensation

§ 2700.35 Time to file.

A complaint for compensation under section 111 of the Act, 30 U.S.C. 821, shall be filed within 90 days after the beginning of the period during which the complainants are idled or would have been idled by the order that gives rise to the claim.

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§ 2700.36 Contents of complaint.

A complaint for compensation shall include:

(a) A short and plain statement of the facts giving rise to the claim, including the period for which compensation is claimed;

(b) The total amount of the compensation claimed, if known; and

(c) A legible copy of any pertinent order of withdrawal or, if a legible copy is not available, the text of the order.

§ 2700.37 Answer.

Within 30 days after service of a complaint for compensation, the operator shall file an answer responding to each allegation of the complaint.

Subpart E—Complaints of Discharge, Discrimination or Interference

§ 2700.40 Who may file.

(a) *The Secretary.* A discrimination complaint under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), shall be filed by the Secretary if, after an investigation conducted pursuant to section 105(c)(2), the Secretary determines that a violation of section 105(c)(1), 30 U.S.C. 815(c)(1), has occurred.

(b) *Miner, representative of miners, or applicant for employment.* A discrimination complaint under section 105(c)(3) of the Act, 30 U.S.C. 815(c)(3), may be filed by the complaining miner, representative of miners, or applicant for employment if the Secretary, after investigation, has determined that the provisions of section 105(c)(1) of the Act, 30 U.S.C. 815(c)(1), have not been violated.

§ 2700.41 Time to file.

(a) *The Secretary.* A discrimination complaint shall be filed by the Secretary within 30 days after his written determination that a violation has occurred.

(b) *Miner, representative of miners, or applicant for employment.* A discrimination complaint may be filed by a complaining miner, representative of miners, or applicant for employment within 30 days after receipt of a written determination by the Secretary that no violation has occurred.